

BEST AVAILABLE COPY**FAX**

To Carol Bidwell / *Anthony Smith*
Company PCT Legal Office
Fax (703) 305-2919
From Rob Smith
Tel
E-mail
Date 11-Aug-2003 Pages including cover 25
Subject RE: Serial No. 09/937,232



GlaxoSmithKline
PO Box 13398
Five Moore Drive
Research Triangle Park
North Carolina 27709

Tel: 919 483 2100
www.gsk.com

RECEIVED

AUG 11 2003
PCT SPECIAL
PROGRAMS OFFICE

Further to our telephone conversation last Thursday, August 7, enclosed please find a Communication regarding the Petition to the Commissioner referred to therein.

Thank you for your assistance on this matter.

Sincerely,
Rob Smith

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Anderson, et al.) Examiner: Cartagena
U.S. Serial No.: 09/937,232)
U.S. Filing Date: September 24, 2001) Group Art Unit: 3754
Confirmation No. 6565)
Title: VALVE FOR USE IN)
CONTAINERS HAVING VALVE)
STEMS SLIDABLY MOVABLE)
WITHIN ROUND-EDGED)
SEALING RINGS)

RECEIVED

COMMUNICATION

09 SEP 2003

Legal Staff
International Division

Commissioner for Patents
Washington D.C. 20231

Attn: Box Issue Fee

Sir:

This is in regards to a Petition to the Commissioner submitted to the Patent Office on November 8, 2002 ("Petition"). The Petition requests reconsideration of decision on petition of the PCT Legal Office under 37 C.F.R. 1.181.

To date, Applicants have not received any communication from the Commissioner regarding the Petition. Accordingly, Applicants respectfully request that the Petition be considered and that action be taken on the same. A copy of the Petition along with a copy of the postcard returned from the PTO indicating receipt of the Petition are enclosed for the convenience of the Office.

No fee is believed to be due in regards to filing this communication. In the event that any fee is due however, the Commissioner is authorized to charge Deposit Account 07-1392.

AUG. 11. 2003 9:45AM

GLAXO WELLCOME

NO. 0032 P. 3

Applicant Docket No.: PG3654USw
U.S. Serial No.: 09/997,232
Page 2 of 2

Entry of this communication is respectfully requested.

Respectfully submitted,

Date: August 11, 2003



Robert J. Smith
Reg. No. 40,820
Attorney for Applicants

GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive
PO Box 13398
Research Triangle Park, NC 27709-3398
Direct Phone (919)483-9616
Facsimile (919)483-

AUG. 11. 2003 9:45AM

GLAXO WELLCOME

NO. 0032

P. 4

DOCKET No. PG 3654 USN Date Mailed 11/08/2002 Atty. RJS/BEYDOCKET No. PG 3654 USN Date Mailed 11/08/2002 Atty/Secy RJS/BEY

MAILING: CERTIFICATE/ EXPRESS MAIL #

Express Mail No.:

U.S. Serial No. : 09/937,232

EV022027699US

Filing Date: 09/24/2001

Int'l App. No.:

Int'l Filing Date:

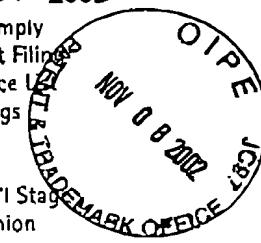
UT06 Rec'd PCT/PTO 08 NOV 2002

RECEIPT IS ACKNOWLEDGED FOR THE FOLLOWING:

Appln Transmit +1 copy for: Provisional CIP
 Utility CONTIN DIV RCE TRADEMARK
 Specification _____ pgs Abstract _____ pgs
 Dees _____ pgs Powers of Atty _____ pgs
 Drawings _____ Sheet(s)/Figs _____ to _____
 Assignment _____ pgs Et Recordation Cover Sheet
 Transmit Ltr Nat'l Stage Entry +fee pg (3pgs)
 Information Disclosure Statement
 Form PTO-1449 _____ pgs. References
 Amendment Response _____ pgs
 Petition for _____ month Extension of Time +1 copy
 Issue Fee Trans. (Part B) +1 copy
 Copy of Notice to File Missing Parts
 Request for Nonpublication (1 pg)

 Authorization to Charge Dep. Acct. # 07-1392 Petition to Commissioner for Reconsideration of Decision on Petition Copy of Transmittal Letter to the DO/ED/DS Copy of Declaration/POA

Copy of Notice to Comply
 Statement to Support Filing
 Diskette Sequence _____
 Appeal Brief _____ pgs
 Petition _____ pgs
 Status Request
 2nd Transmit for Nat'l Stage
 Resp. to Written Opinion
 Priority Doc # _____
 Notice of Appeal +fee
 Resp to Restrict Req _____ pgs
 Req to Correct Filing Recpt
 Copy of Filing Receipt
 Req for Cert of Correct _____ pgs

EXPRESS
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EV 022027699 US

ORIGIN (POSTAL USE ONLY)

PO Zip Code <u>27705</u>	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>
Date In <u>11/8/02</u>	Postage <input checked="" type="checkbox"/> \$136	Return Receipt Fee <input type="checkbox"/>
Time In <u>11:13</u>	Delivery <input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	
Weight <u>6 oz.</u>	COO Fee <input type="checkbox"/>	Insurance Fee <input type="checkbox"/>
No Delivery <input type="checkbox"/> Workday <input type="checkbox"/> Holiday	Accepting Clerk Initials <u>BST</u>	Total Postage & Fees <u>\$1365</u>
SEE REVERSE SIDE FOR SERVICE GUARANTEE AND LIMITS ON INSURANCE COVERAGE		
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only): Additional merchandise insurance is held if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery. <input type="checkbox"/> NO DELIVERY <input type="checkbox"/> Workday <input type="checkbox"/> Holiday <input type="checkbox"/> Customer Signature		

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TO: (PLEASE PRINT)

PHONE () _____

PHONE () _____

SOX
COMMISSIONER FOR PATENTS
US PATENT & TRADEMARK OFFICE
WASHINGTON DC 20231-1000

FROM: (PLEASE PRINT) <u>GLAXOSmithKline</u> <u>Pharmaceuticals</u> <u>555 Morris Rd</u> <u>Princeton NJ 08543</u>	PHONE () <u>PG 3654 USN</u>
NC 27709-3393	
FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com	

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)

Applicant(s): ANDERSON, et. al.

Docket No.

PG3654USw

Serial No.
09/937,232Filing Date
09/24/2001Examiner
CARTAGENAGroup Art Unit
3754

Invention:

VALVE

I hereby certify that this Petition to Commissioner for Reconsideration of Decision and Corresponding Docs
(Identify type of correspondence)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under
37 CFR 1.10 in an envelope addressed to: The Commissioner of Patents and Trademarks, Washington, D.C.

20231-0001 on 11/08/2002
*(Date)*Ban Younan*(Typed or Printed Name of Person Mailing Correspondence)*Ban Younan*(Signature of Person Mailing Correspondence)*EVO22027699US*("Express mail" mailing label / number)*

Note: Each paper must have its own certificate of mailing.

**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
PG3654USw

In Re Application Of:

ANDERSON, et. al.

Serial No.	Filing Date	Examiner	Group Art Unit
09/937,232	09/24/2001	CARTAGENA	3754

Title:

VALVE**TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:**

Transmitted herewith is:

Petition to Commissioner for Reconsideration of Decision on Petition of PCT Legal Office Under 37 C.F.R. 1.181

TAB 1: Copy of Transmittal Letter to the DO/EO/US Concerning a Filing Under 35 U.S.C. 371

TAB 2: Copy of Combined Declaration for Utility or Design Patent Application with POA

TAB 3: Copy of Filing Receipt and Notice of Acceptance

in the above identified application.

No additional fee is required.

A check in the amount of _____ is attached.

The Commissioner is hereby authorized to charge and credit Deposit Account No. 07-1392 as described below. A duplicate copy of this sheet is enclosed.

Charge the amount of _____

Credit any overpayment.

Charge any additional fee required.



Signature

Dated:

November 8, 2002

Robert J. Smith
Registration No.: 40,820
Telephone: 919-483-9616



23347
PATENT TRADEMARK OFFICE

CC:

I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.6 and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.	
<i>Signature of Person Mailing Correspondence</i>	
Typed or Printed Name of Person Mailing Correspondence	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Anderson et al.)
Int'l Appln. No.: PCT/EP00/01444) Examiner: Cartagena
Int'l Filing Date: February 23, 2000)
U.S. Serial No.: 09/937,232) Art Unit: 3754
U.S. Filing Date: September 24, 2001) Applicant Docket #: PG3654USw
Title: VALVE)

**PETITION TO COMMISSIONER FOR RECONSIDERATION
OF DECISION ON PETITION OF PCT LEGAL OFFICE
UNDER 37 C.F.R. 1.181**

Commissioner for Patents
Washington D.C. 20231

Sir:

Pursuant to 37 C.F.R. 1.181, this is a Petition to the Commissioner requesting reconsideration of a Notification of the PCT Legal Office issued September 25, 2002 vacating the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) ("Notification"). Applicant believes that such a Petition is appropriate under the conditions set forth in 37 C.F.R. 1.181(a). For the reasons stated herein, Applicant respectfully submits that the Notification was clearly in error. Accordingly, reinstatement of the above application as a U.S. National Stage application is respectfully requested.

Statement of Facts/Background

On September 24, 2001, Applicant filed the above application in the U.S. Designated/Elected Office. The contents of the filing included:

10/02/2003 GFREY1 0000006 071392 09937232
01 FC:1460 130.00 DA

Express Mail No.:
EV022027699US

Applicant Docket No.: PG3654/USw
Serial No.: 09/937,232
Page 2 of 8

- (1) Transmittal Form PCT/DO/EO/1390 indicating that the application is a national stage filing (**Tab 1**);
- (2) A copy of the PCT Request filed in the corresponding PCT application;
- (3) A copy of the PCT Cover Sheet filed in the corresponding PCT application;
- (4) A copy of the International Preliminary Examination Report issued for the corresponding PCT application;
- (5) A copy of the International Search Report issued for the corresponding PCT application;
- (6) A Information Disclosure Statement under 37 CFR 1.97 and 1.98;
- (7) A first Preliminary Amendment; and
- (8) An oath or declaration of the inventor(s) submitted in accordance with 37 USC 371(c)(3) (**Tab 2**)

On October 30, 2001 a Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 C.F.R. 1.494 or 1.495 was mailed to Applicant, along with a Filing Receipt (both of which are enclosed at **Tab 3**). The Notice of Acceptance explicitly stated that International Application PCT/EP00/01444 had met the requirements of 35 U.S.C. 371 and was accepted for national patentability examination. The Filing Receipt indicated that the national phase application was a 371 of PCT/EP00/01444 under the "Domestic priority data as claimed by applicant".

Subsequently, on May 2, 2002, an Office Action on the merits was mailed to Applicant. Applicant timely filed a response to the Office Action on July 30, 2002. In the response, Applicant amended page 1 of the specification to properly reflect the lineage of the present U.S. application in relation to PCT International Application No. PCT/EP00/01444. Applicant also concurrently filed a Petition to Accept an Unintentionally Delayed Priority Claim Under 37 C.F.R. 1.78(a)(3).

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Serial No.: 09/937,232
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On September 25, 2002, the PCT Legal Office issued the Notification vacating the Notification of Acceptance of Application under 35 U.S.C. § 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) and ordered the application be processed as an application under 35 U.S.C. 111(a) and not as a U.S. national stage application. The PCT Legal Office reached this decision because, in its opinion, Applicant's First Preliminary Amendment filed concurrently with request for entry into the national phase contained the header "Preliminary Amendment Under 35 U.S.C. 111". The PCT Legal Office alleged that this statement gave rise to a level of ambiguity as to whether an application under 111(a) or a national stage application was intended to be filed by Applicant. Citing 37 C.F.R. 1.495(g) and MPEP 1893.03(a) in support of its position, the PCT Legal Office indicated that, in the event that an ambiguity is present, the application must be treated as a 111(a) application.

Statement/Point for Review by Commissioner

The vacation of the above application as a national stage application under 35 U.S.C. 371 by the PCT Legal Office was in error

For the reasons set forth below, Applicant respectfully submits that the PCT Legal Office's Notification ordering the application be processed as a 111(a) application was clearly in error. Applicant's position is based largely upon the standard provided by 37 C.F.R. 1.495(g) and MPEP 1893.03(a) for evaluating whether a national phase application or an application under 35 U.S.C. 111 is intended to be filed. Accordingly, Applicant respectfully requests that the decision of the PCT Legal Office set forth in the Notification be set aside and that the application be treated as a national stage application as correctly determined by the Patent Office.

In support of its argument, the PCT Legal Office cites 37 C.F.R. 1.495(g) and MPEP 1893.03(a) for the position that an ambiguity as to whether an application is to be filed as a national stage or a 111(a) application is to be resolved in favor of a 111(a) application. Applicant does not dispute

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such a position. Applicant instead submits that no such ambiguity exists. Moreover, Applicant submits that the PCT Legal Office has arrived at its decision without a thorough analysis to the C.F.R. and MPEP provisions that it has cited. When evaluating the arguments of the PCT Legal Office properly in view of the above C.F.R. and MPEP provisions taken in their entirety, it is clear that the position of the PCT Legal Office is without merit.

37 C.F.R. 1.495(g) states:

"The documents and fees submitted under paragraphs (b) and (c) of this section must, except for a copy of the international publication or translation of the international application that is identified as provided in § 1.417, be clearly identified as a submission to enter the national stage under under 35 U.S.C. 371. Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a)"

37 C.F.R. 1.495(b) and (c) states as follows:

"To avoid abandonment of the application the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of 30 months from the priority date:

- (1) **A copy of the international application**, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and
- (2) **The basic national fee (see § 1.492(a))**. The 30-month time limit may not be extended."

(emphasis added)

37 C.F.R. 1.495 (c) states:

"If applicant complies with paragraph (b) of this section before expiration of 30 months from the priority date but omits:

- (1) A translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)) and/or

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Serial No.: 09/937,232
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(2) *The oath or declaration of the inventor* (35 U.S.C. 371(c)(4); see § 1.497), and a declaration of inventorship in compliance with § 1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1. applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 30 months after the priority date. A "Sequence Listing" need not be translated if the "Sequence Listing" complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b)."

(emphasis added).

It is clear that Applicant has provided the items referenced in 37 C.F.R. 1.495(g) and that those items were clearly marked as intended for national stage entry. Such documents include:

- (a) a copy of the International Application;
- (b) the basic national fee under § 1.492(a); and
- (c) an Oath or Declaration under 35 U.S.C. 371(c)(4).

With the exception of a copy of the International Application, such items were filed concurrently with the request to enter the national phase and were listed on Transmittal Form PCT/DO/EO/1390 (see Tab 1)¹. Receipt of these items was acknowledged by the Patent Office in the Notification of Acceptance of Application. Accordingly, in view of 37 C.F.R. 1.495(g), which was cited by the PCT Legal Office in its Notification, Applicant respectfully submits that it unquestionably intended the application to enter the national stage as opposed to a 111(a) filing.

The PCT Legal Office also cites MPEP 1893.03(a), pages 1800-114 in support of its position. Applicant respectfully submits that a more thorough

¹ A copy of the International Application was transmitted by the International Bureau to the Patent Office. Acknowledgement of receipt of the International Application was indicated by the Notification of Acceptance of Application issued by the Patent Office

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Serial No.: 09/937,232
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examination of this passage reveals that the present application was clearly intended for national stage entry.

MPEP 1893.03(a) lists three key factors in evaluating whether an application is to be considered as filed under 35 U.S.C. 371. Such factors are:

- (A) *The file face indication of a filing under 35 U.S.C. 371;*
- (B) *The Form PCT/DO/EO/903 indicating acceptance of the application as a national stage filing under 35 U.S.C. 371; and*
- (C) *Applicant's statement (or the equivalent) in the originally filed application papers that the application is a national stage filing under 35 U.S.C. 371. Applicants who use transmittal Form PCT/DO/EO/1390 will satisfy the requirement for such a statement since the form includes an indication that the application is a national stage filing under 35 U.S.C. 371.*

(emphasis added)

With respect to factor (A), the filing of Transmittal Form PCT/DO/EO/1390 (see Tab 1) by Applicant fulfills its requirement. In particular, the first line of Form PCT/DO/EO/1390 states:

"Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371"

With respect to factor (B), the Patent Office issued a Form PCT/DO/EO/903 indicating acceptance of the application as a national phase filing. See Tab 3. Accordingly, this factor is met.

With respect to factor (C), Applicant has provided a statement that the application is a national stage filing under 35 U.S.C. 371 by virtue of the submission of Form PCT/DO/EO/1390. See Tab 1. Factor (C) indicates that "Applicants who use transmittal form PCT/DO/EO/1390 will satisfy the requirement for such a statement..." (MPEP 1893.03(a)). Therefore, this factor is believed to be satisfied.

In addition to the above, MPEP 1893.03(a) further states:

"... In accordance with the notice at 1077 O.G. 13 (14 April 1987), if the applicant files a U.S. national application and clearly identifies in the accompanying oath or declaration the specification to which it is directed by referring to a particular international application by PCT Application Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application, then the application will be accepted as filed under 35 U.S.C. 371."

(emphasis added)

Applicant refers the Commissioner to **Tab 2** which is a copy of the inventor's Declaration filed concurrently with the application. The Declaration clearly indicates that the reference application is PCT International Application No. PCT/EP00/01444 filed 23 February 2000. Therefore, in accordance with the passage of MPEP 1893.03(a) cited above, the present application is to accepted as filed under 35 U.S.C. 371.

Conclusion/Action Requested

When properly analyzed in light of the appropriate legal standards, Applicant respectfully submits that the present application was unquestionably intended for national phase filing under 35 U.S.C. 371. In view of such an analysis, a single statement in a Preliminary Amendment referring to 35 U.S.C. 111 cannot be construed as giving rise to an ambiguity as to the intention of the filing². The evidence of record overwhelmingly indicates that Applicant intended the application be filed as a national stage application.

In view of the above, Applicant respectfully requests that the Commissioner reverse the decision of the PCT Legal Office set forth in the Notification, and that the Application be properly afforded its initial and correct status as a national stage application.

Applicant Docket No.: PG3654/USw
Serial No.: 09/937,232
Page 8 of 8

In accordance with 37 C.F.R. 1.181(f), this Petition is considered to be timely filed because it is filed within two months from the mailing of the Notification. Additionally, the Commissioner is authorized to charge Deposit Account No.07-1392 for any fee that may be due so as to fulfill the requirement of 37 C.F.R. 1.181(d).

It is encouraged that Applicant's undersigned representative be contacted at (919) 483-9616 in the event that there are any questions or concerns pertaining to the above.

Respectfully submitted,

Date: November 8, 2002



Robert J. Smith
Reg. No. 40,820
Attorney for Applicants

GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive
PO Box 13398
Research Triangle Park, NC 27709-3398
Direct Phone (919)483-9616
Facsimile (919)483-7988



23347

PATENT TRADEMARK OFFICE

² Applicant submits that this statement in the Preliminary Amendment was an inadvertent typographical error and made without deceptive intent.

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		PC3 USW U.S. APPLICATION NO. (IF KNOWN SEE 37 CFR)
INTERNATIONAL APPLICATION NO. PCT/EP00/01444	INTERNATIONAL FILING DATE 23 February 2000	PRIORITY DATE CLAIMED 24 March 1999
TITLE OF INVENTION VALVE		
APPLICANT(S) FOR DO/EO/US Gregor John McLennan ANDERSON; Mark Andrew HAILEY; David Joseph RUSSELL; James William GODFREY		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a filing under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below. 4. <input type="checkbox"/> The US has been elected by the expiration of 19 months from the priority date (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c) (2)) <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input checked="" type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input checked="" type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)). <i>Anderson, Harley, Russell, Godfrey</i> 10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)). 11. <input checked="" type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409). 12. <input checked="" type="checkbox"/> A copy of the International Search Report (PCT/ISA/210). <p>Items 13 to 20 below concern document(s) or information included:</p> <ol style="list-style-type: none"> 13. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 14. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 15. <input checked="" type="checkbox"/> A FIRST preliminary amendment. 16. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 17. <input type="checkbox"/> A substitute specification. 18. <input type="checkbox"/> A change of power of attorney and/or address letter. 19. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825. 20. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4). 21. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 22. <input checked="" type="checkbox"/> Certificate of Mailing by Express Mail 23. <input checked="" type="checkbox"/> Other items or information: Copy of PCT Request Copy of PCT Cover Sheet 		

24. The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :

<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO	\$1000.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO	\$860.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO	\$710.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4)	\$690.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4)	\$100.00

ENTER APPROPRIATE BASIC FEE AMOUNT =

Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492 (e)). 20 30

\$860.00

\$0.00

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	
Total claims	30 - 20 =	10	x \$18.00	\$180.00
Independent claims	1 - 3 =	0	x \$80.00	\$0.00
Multiple Dependent Claims (check if applicable)				\$0.00

TOTAL OF ABOVE CALCULATIONS =

\$1,040.00

Applicant claims small entity status. (See 37 CFR 1.27). The fees indicated above are reduced by 1/2.

\$0.00

SUBTOTAL =

\$1,040.00

Processing fee of \$130.00 for furnishing the English translation later than months from the earliest claimed priority date (37 CFR 1.492 (f)). 20 30 +

\$0.00

TOTAL NATIONAL FEE =

\$1,040.00

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable).

\$0.00

TOTAL FEES ENCLOSED =

\$1,040.00

Amount to be:

\$

refunded

\$

charged

\$

- a. A check in the amount of _____ to cover the above fees is enclosed.
- b. Please charge my Deposit Account No. 07-1392 in the amount of 1040.00 to cover the above fees. A duplicate copy of this sheet is enclosed.
- c. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1392. A duplicate copy of this sheet is enclosed.
- d. Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

David J. Levy
GlaxoSmithKline
Corporate Intellectual Property
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709
Telephone: 919-483-2370
Fax: 919-483-7988



23347

PATENT TRADEMARK OFFICE

SIGNATURE

Christopher P. Rogers

NAME

36,334

REGISTRATION NUMBER

September 24, 2001

DATE

24. The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)) :

<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO	\$1000.00
<input checked="" type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO	\$860.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO	\$710.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provisions of PCT Article 33(1)-(4)	\$690.00
<input type="checkbox"/> International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4)	\$100.00

ENTER APPROPRIATE BASIC FEE AMOUNT =

\$860.00

Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492 (e)).

 20 30

\$0.00

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE
Total claims	30 - 20 =	10	x \$18.00
Independent claims	1 - 3 =	0	x \$80.00
Multiple Dependent Claims (check if applicable).			<input type="checkbox"/> \$0.00

TOTAL OF ABOVE CALCULATIONS =

\$1,040.00

 Applicant claims small entity status. (See 37 CFR 1.27). The fees indicated above are reduced by 1/2.

\$0.00

SUBTOTAL =

\$1,040.00

Processing fee of \$130.00 for furnishing the English translation later than months from the earliest claimed priority date (37 CFR 1.492 (f)).

 20 30

+ \$0.00

TOTAL NATIONAL FEE =

\$1,040.00

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31) (check if applicable).

\$0.00

TOTAL FEES ENCLOSED =

\$1,040.00

Amount to be refunded	\$
charged	\$

- a. A check in the amount of _____ to cover the above fees is enclosed.
- b. Please charge my Deposit Account No. 07-1392 in the amount of 1040.00 to cover the above fees. A duplicate copy of this sheet is enclosed.
- c. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1392. A duplicate copy of this sheet is enclosed.
- d. Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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SEND ALL CORRESPONDENCE TO:

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 Five Moore Drive, PO Box 13398
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 Fax: 919-483-7988

23347
PATENT TRADEMARK OFFICE

SIGNATURE

Christopher P. Rogers

NAME

36,334

REGISTRATION NUMBER

September 24, 2001

DATE

**COMBINED DECLARATION FOR UTILITY OR DESIGN PATENT
APPLICATION WITH POWER OF ATTORNEY**

() Declaration submitted with initial filing or
 () Declaration submitted after initial filing (surcharge required 37CFR1.16(e))

 ATTORNEY'S DOCKET
 PG3654USW

 First Names Inventor:
 Gregor John McLennan
 ANDERSON

Complete if known:
 App No.:

Filing Date

Group Art Unit:

As below named inventor. I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

VALVE

the specification of which (check only one item below):

[] is attached hereto.

OR

 [x] was filed on 23 February 2000 as United States application Serial No. _____ or PCT International

 Application Number PCT/EP00/01444 filed and was amended on (MM/DD/YYYY) _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §1.56.

I hereby claim foreign priority benefits under 35, U.S.C. §119 (a)-(d) or §365(b) of any foreign applications(s) for patent or inventor's certificate or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed:

PRIOR FOREIGN AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:

Prior Foreign Application Number (s)	Country	Foreign Filing Date (MM/DD/YYYY)	PRIORITY CLAIMED
1 9906640.9	GB	March 24, 1999	X
2.			
3.			
4.			
5.			

I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below:

Application No.	Filing Date (MM/DD/YYYY)
1.	
2.	
3.	
4.	

 Express Mail No.:
 EV022027699US

COMBINED DECLARATION FOR UTILITY or DESIGN
PATENT APPLICATION WITH POWER OF ATTORNEY

Continued

ATTORNEY'S DOCKET NUMBER
PG3654USW

I hereby claim the benefit under 35, U.S.C. §120 of any United States application or §365(c) of any PCT international application designating the United States of America that is listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. §1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

PRIOR U.S. PARENT APPLICATION or PCT PARENT APPLICATION

		STATUS (Check one)		
U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	PATENTED	PENDING	ABANDONED

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the U.S. Patent and Trademark Office connected therewith. (List name and registration number)

David J. Levy	Reg. No. 27,655	James P. Rick	Reg. No. 39,009	Bonnie L. Doppenbrock Reg. No. 28,209
Charles E. Dadswell	Reg. No. 35,851	Virginia C. Bennett	Reg. No. 37,092	John L. Lemanowicz Reg. No. 37,380
Karen L. Prus	Reg. No. 39,337	Frank P. Grassler	Reg. No. 31,164	Amy H. Fix Reg. No. 42,616
Robert H. Brink	Reg. No. 36,094	Christopher P. Rogers	Reg. No. 36,334	
Elizabeth Selby	Reg. No. 38,298	Lorie Ann Morgan	Reg. No. 38,181	

Send Correspondence to:

David J. Levy, Patent Counsel
Corporate Intellectual Property Department
GlaxoSmithKline
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709

23347
PATENT TRADEMARK OFFICE

Direct Telephone Calls to:

Christopher P. ROGERS
919-483-1240

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2	FULL NAME OF INVENTOR ANDERSON	FAMILY NAME ANDERSON	FIRST GIVEN NAME Gregor	SECOND GIVEN NAME/INITIAL John, McLennan
0	INVENTOR'S SIGNATURE 	Sigature X	Date X 30 Aug 01	
0	RESIDENCE & CITIZENSHIP Ware	CITY Ware	STATE OR FOREIGN COUNTRY GB	COUNTRY OF CITIZENSHIP GB
1	POST OFFICE ADDRESS GlaxoSmithKline Five Moore Drive, PO Box 13398	CITY Durham	STATE & ZIP CODE/COUNTRY North Carolina 27709, US	
2	FULL NAME OF INVENTOR HAILEY	FAMILY NAME HAILEY	FIRST GIVEN NAME Mark	SECOND GIVEN NAME/INITIAL Andrew
0	INVENTOR'S SIGNATURE 	Sigature X	Date X 30 Aug 01	
0	RESIDENCE & CITIZENSHIP Ware	CITY Ware	STATE OR FOREIGN COUNTRY GB	COUNTRY OF CITIZENSHIP GB
2	POST OFFICE ADDRESS GlaxoSmithKline Five Moore Drive, PO Box 13398	CITY Durham	STATE & ZIP CODE/COUNTRY North Carolina 27709, US	
2	FULL NAME OF INVENTOR RUSSELL	FAMILY NAME RUSSELL	FIRST GIVEN NAME David	SECOND GIVEN NAME/INITIAL Joseph
0	INVENTOR'S SIGNATURE 	Sigature X	Date X 10 Sep 01	
0	RESIDENCE & CITIZENSHIP Ware	CITY Ware	STATE OR FOREIGN COUNTRY GB	COUNTRY OF CITIZENSHIP GB
3	POST OFFICE ADDRESS GlaxoSmithKline Five Moore Drive, PO Box 13398	CITY Durham	STATE & ZIP CODE/COUNTRY North Carolina 27709, US	

2	FULL NAME OF INVENTOR GODFREY	FAMILY NAME <i>JW Godfrey</i>	FIRST GIVEN NAME James	SECOND GIVEN NAME/INITIAL William
0	INVENTOR'S SIGNATURE <input checked="" type="checkbox"/>	Date <input checked="" type="checkbox"/> 12 Sept 01		
0	RESIDENCE & CITIZENSHIP Ware	CITY GB	STATE OR FOREIGN COUNTRY GB	COUNTRY OF CITIZENSHIP GB
4	POST OFFICE ADDRESS GlaxoSmithKline Five Moore Drive, POBox 13398	CITY Durham	STATE & ZIP CODE/COUNTRY North Carolina 27709, US	

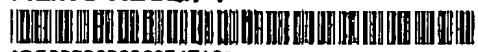

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/937,232	09/24/2001	3754	1040	PG3654USW	3	30	1

CONFIRMATION NO. 6565

23347
 DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
 GLAXOSMITHKLINE
 FIVE MOORE DR.
 PO BOX 13398
 DURHAM, NC 27709-3398

FILING RECEIPT


OC00000006974719

Date Mailed: 10/30/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Gregor John McLennan Anderson, Durham, NC;
 Mark Andrew Hailey, Durham, NC;
 David Joseph Russell, Durham, NC;
 James William Godfrey, Durham, NC;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A 371 OF PCT/EP00/01444 02/23/2000

Foreign Applications

UNITED KINGDOM 9906640.9 03/24/1999

Projected Publication Date: Not Applicable, filed prior to November 29, 2000

Non-Publication Request: No

Early Publication Request: No

Title

Valve

Preliminary Class

Express Mail No.:
EV022027699US

251

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related application(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Commissioner For Patents, Box PCT, United States Patent and Trademark Office, Washington, D.C. 20231, www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/937,232	Gregor John McLennan Anderson	PG3654USW
INTERNATIONAL APPLICATION NO.		
PCT/EP00/01444		
23347 DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY GLAXOSMITHKLINE FIVE MOORE DR. PO BOX 13398 DURHAM, NC 27709-3398		I.A. FILING DATE PRIORITY DATE
		02/23/2000 03/24/1999
CONFIRMATION NO. 6565 371 ACCEPTANCE LETTER  OC00000006974720*		

Date Mailed: 10/30/2001

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.494 OR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

09/24/2001

DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and
(c)(4) REQUIREMENTS

09/24/2001

DATE OF RECEIPT OF ALL 35 U.S.C.
REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- U.S. Basic National Fee
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Information Disclosure Statements
- Oath or Declaration
- Preliminary Amendments
- Request for Immediate Examination

AUG. 11. 2003 9:51AM

GLAXO WELLCOME

NO. 0032 P. 25
Page 2 of 2

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

TAMALA D HOLLAND
Telephone: (703) 305-5483

PART 1 - ATTORNEY/APPLICANT COPY

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